

FCC MAIL ROOM

Before the  
Federal Communications Commission  
Washington, DC 20554

FEB 6 12 31 PM '04

In the Matter of )

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Request for Waiver )

)

Meade County Public Library  
Brandenburg, Kentucky )

)

File No. SLD-322658

Schools and Libraries Universal Service  
Support Mechanism )

)

CC Docket No. 02-6

**ORDER****Adopted: February 5, 2004****Released: February 6, 2004**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Waiver filed by Meade County Public Library, Brandenburg, Kentucky (Meade).<sup>1</sup> Meade requests review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).<sup>2</sup> For the reasons set forth below, we deny the Waiver Request.

2. In its decision, SLD determined that Meade's application had been filed after the close of the January 17, 2002 FCC Form 471 filing window.<sup>3</sup> Meade requests a waiver of the Commission's rules because of changes in personnel that occurred prior to the filing of the application.<sup>4</sup> Meade also argues that this denial has had a detrimental impact on the service it provides to its patrons.<sup>5</sup>

<sup>1</sup> Letter from James Mitchell, Meade County Public Library, to Federal Communications Commission, filed December 10, 2002 (Waiver Request). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Universal Service Administrative Company (Administrator) may seek review from the Commission. 47 C.F.R. 54.719(c).

<sup>2</sup> *Id.*

<sup>3</sup> Postcard from Schools and Libraries Division, Universal Service Administrative Company, to James Mitchell, 400 Library Place, dated November 22, 2002. The record shows that Meade's Block 6 Certification Page was postmarked on January 18, 2002.

<sup>4</sup> See Waiver Request.

<sup>5</sup> *Id.*

3. We find that a waiver is not appropriate. A waiver from the Commission is appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than strict adherence to the general rule.<sup>6</sup> Applicant's assertion that changes in staff contributed to the filing of the application out of window is not a special circumstance warranting a waiver of the filing window.<sup>7</sup> We have consistently held that it is the applicant who has responsibility ultimately for the timely submission of the application.<sup>8</sup> Moreover, Meade's assertion that denial of its application may have a detrimental impact on the service it provides to its patrons does not create the special circumstances or particular facts that warrant a waiver of the Commission's rules.<sup>9</sup> Therefore, we deny the Waiver Request.

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<sup>6</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) (*Northeast Cellular*); see also *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969) (stating that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis), *cert. denied*, 409 U.S. 1027 (1972).

<sup>7</sup> See, e.g., *Request for Waiver by Hancock County Public Library*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-318275, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 19521 (Wireline Comp. Bur. 2002).

<sup>8</sup> See, e.g., *Request for Waiver by Center City Schools*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-325719, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 22424 (Wireline Comp. Bur. 2003).

<sup>9</sup> See, e.g., *Application for Review by Information Technology Department State of North Dakota*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc. File No. SLD-245592, CC Docket Nos. 96-45 and 97-21, Order, FCC 03-240 (Wireline Comp. Bur. rel. Oct. 21, 2003) (finding that detrimental impact alone does not create special circumstances that warrant a waiver.); *Request for Review by Northern Waters Library Service*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-183124, CC Docket Nos. 96-45 and 97-21, Order, 17 FCC Rcd 1756 (Com. Car. Bur. 2002) (denying a request for waiver of the Commission's rules based on the assertion that denial would cause applicant hardship.); *Request for Review by Lansingburgh Central School District*, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc., File No. SLD-109845, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 6999 (Com. Car. Bur. 1999) ("To simply advert...to its limited resources and the needs of its students, does not distinguish its situation from other applications the SLD must process each funding year in accordance with its filing deadlines.").

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3 and 54.722(a), that the Waiver Request filed by Meade County Public Library on December 10, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Narda M. Jones

Deputy Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau